



INTERIOR BOARD OF INDIAN APPEALS

Joan LeBeau, et al. v. Acting Deputy Assistant Secretary -
Indian Affairs (Operations)

14 IBIA 84 (03/19/1986)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

JOAN LeBEAU, GILBERT LeBEAU,	:	Order Dismissing Appeal
WALTER WOODS, BERTHA CHASING	:	
HAWK, and GRADY CLAYMORE,	:	
Appellants	:	
	:	
	:	
v.	:	Docket No. IBIA 86-12-A
	:	
ACTING DEPUTY ASSISTANT	:	
SECRETARY--INDIAN AFFAIRS	:	
(OPERATIONS),	:	
Appellee	:	March 19, 1986

On November 12, 1985, the Board of Indian Appeals (Board) received a notice of appeal from Joan LeBeau, Gilbert LeBeau, Walter Woods, Bertha Chasing Hawk, and Grady Claymore (appellants). Appellants sought review of an October 25, 1985 decision of the Acting Deputy Assistant Secretary--Indian Affairs (Operations) (appellee) concerning a dispute over the Cheyenne River Sioux tribal election scheduled for September 1984.

Appellants' appeal resulted from the Cheyenne River Sioux Tribal Council's passage of two resolutions on July 12, 1984. In Resolution No. 190-84-CR the council "forever barred" appellants Joan LeBeau, Gilbert LeBeau, and Walter Woods from holding appointed or elected tribal office because of alleged "past misconduct in office." A second resolution, passed without identifying number, disqualified appellants Bertha Chasing Hawk and Grady Claymore from running in the September 1984 general election because of alleged nonresidency in the district each sought to represent.

Appellants filed suit in federal district court in August 1984 against the Bureau of Indian Affairs (BIA) and several tribal officials seeking to enjoin the election or, if the election were held, to enjoin BIA from recognizing the tribal council so elected or permitting the tribe to expend BIA or tribal funds. Appellants also sought to compel a new election in which they would be permitted to run. The district court dismissed the case apparently after holding it did not have jurisdiction.

When the tribal council's actions were brought to the attention of BIA officials, the Aberdeen Area Director (Area Director) sought legal advice from the Twin Cities Field Solicitor. In a letter dated August 21, 1984, the Field Solicitor stated that the tribal council had acted contrary to the tribal constitution in passing Resolution No. 190-84-CR. The eventual BIA position, set forth in a letter from the Area Director and dated October 25, 1984, was that it would recognize only those tribal council actions taken when there were sufficient members present, excluding members from the two disputed districts, to constitute a quorum as specified in the tribal constitution. The letter also

suggested that a measure would not be deemed to have passed unless enough members voted for it without considering the votes of the members from the two disputed districts. The Area Director did not order new elections, withdraw Federal recognition of the entire tribal council, or order a cutoff of Federal funds.

Appellants appealed to appellee the Area Director's failure to order new elections, withdraw recognition of the tribal council, and cut off funding. On October 25, 1985, appellee affirmed the Area Director's decision. Appellants' appeal from the 1985 decision was received by the Board on November 12, 1985. Appellants filed an opening brief on January 30, 1986.

On February 28, 1986, appellee filed a motion to dismiss and, in the alternative, an answer brief. Appellee's motion to dismiss states that on February 13, 1986, the tribe held a new election to fill the seats from the disputed districts and appellants were permitted to run in the election. Appellee states that appellants Joan LeBeau, Gilbert LeBeau, and Bertha Chasing Hawk were elected to the tribal council at that election, and thus have received the relief they sought.

Appellants did not file a reply to appellee's motion to dismiss.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, and the representation of appellee that appellants have received the relief they requested, this appeal is dismissed as moot.

//original signed
Jerry Muskrat
Administrative Judge

//original signed
Wm. Philip Horton
Acting Chief Administrative Judge